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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/567,986

07/05/2007

Joseph Lanzarotta

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EXAMINER

CHEUNG, WILLIAM K

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

03/19/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

iplawpat@bfusa.com

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|--|--|--|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | <p>Application No. 10/567,986</p> | <p>Applicant(s) LANZAROTTA ET AL.</p> | |
| | <p>Examiner WILLIAM K. CHEUNG</p> | <p>Art Unit 1796</p> | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 1-20.
- Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/William K Cheung/
Primary Examiner, Art Unit 1796\
March 15, 2010

Continuation of 3. NOTE: The proposed amendment for claims 1, 8, 9, 10 introduces new issues that would require further consideration and/or search by the examiner. Further, the proposed amendment would not place the claims in allowable conditions..

Continuation of 11. does NOT place the application in condition for allowance because: In view of applicants' argument, the rejection of claims 14, 16 under 35 USC 112, first paragraph, has been withdrawn. Further, in view of applicants' argument, the rejection of claims 1-3, 11-16 under 35 USC 112, second paragraph, has been withdrawn. In view of new issues and that the proposed amendment would not deem place the claims in allowable condition, the proposed amendment has not been entered. Therefore, Claims 1-7, 11-12 remain rejected under 35 U.S.C. 102(b) as being anticipated by Bruck et al. (DE 3501 697). Further, Claims 8-10, 12-20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Bataille et al. (US 2001/0051677) in view of Bruck et al. (DE 3501 697). Applicants argue that NBR and EPDM are not the specific rubbers being claimed on claim 1. However, applicants fail to recognize that the EPDM rubbers disclosed in Bruck et al. meets the claimed requirement "thermoplastic rubber". Regarding applicants' argument relating to the exclusion of non-thermoplastic rubbers, the argument is not supported by the claims as written. Regarding applicants' argument that the composition of Bruck et al. already possess good "ozonosphere resistance" properties, the argument is not supported by the claims as written except for claim 19. However, Bataille et al. (page 1, 0004) clearly disclose the incorporation of waxes. Regarding applicants' argument that Bataille et al. has a component for ozone resistance, there is inadequate motivation to include the thio compound of Bruck et al. into the composition of Bataille et al. However, applicants fail to recognize that Bruck et al. affirms the motivation of specific applications such as pipe coverings, conveyor belt coverings, and/or drive belts (page 5, line 4-5). Regarding applicants' argument that Bruck et al. and Bataille et al. are not in the same field of endeavor because the compositions of Bataille et al. is drawn to tires applications while Bruck et al. are not, the examiner disagrees because Bruck et al. and Bataille et al. are drawn to the same endeavor of developing rubber compositions for applications that require good chemical or thermal stability. Regarding applicants' argument that claim 16 has not been adequately rejected. Applicants seem to be arguing that the claimed "exclusive" feature of claim 16 means the exclusion of "alkali metal salt of an alkylsulphonic or alkylsulphuric acid". However, the argument is not supported. Applicants must recognize that "exclusive of" is not same as "exclusion of". Applicants must recognize that the recitation "exclusive of" means the exclusion of ingredients other than the "alkali metal salt of an alkylsulphonic or alkylsulphuric acid" being claimed. Therefore, in view of the reasons set forth above, all the claims being claimed have been addressed and properly rejected for the reasons adequately set forth from the final rejection of January 14, 2010.